

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

AMENDED IN ASSEMBLY MARCH 23, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 48**

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**Introduced by Assembly Members Portantino and Niello**

December 1, 2008

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An act to amend Sections 27, 101, 146, 149, and 473.1 of the Business and Professions Code, and to add and repeal Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 of the Education Code, relating to private postsecondary education, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

AB 48, as amended, Portantino. Private postsecondary education: California Private Postsecondary Education Act of 2009.

(1) The former Private Postsecondary and Vocational Education Reform Act of 1989, which became inoperative on July 1, 2007, and was repealed on January 1, 2008, was administered by the Bureau for Private Postsecondary and Vocational Education in the Department of Consumer Affairs. The former act generally effectuated legislative intent to ensure minimum standards of instructional quality and institutional stability in private postsecondary educational institutions and required the bureau, among other things, to review and investigate all institutions, programs, and courses of instruction approved under the act.

The former act also established the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, both of which were repealed on July 1, 2008. The former act specified that certain violations of its provisions were subject to civil penalties and that certain willful violations of the act were punishable as crimes.

This bill would recast and revise the former act as the California Private Postsecondary Education Act of 2009. The bill would establish the Bureau for Private Postsecondary Education in the Department of Consumer Affairs as a successor agency to the former bureau. The bill would appropriate the sum of \$580,000 from the Private Postsecondary and Vocational Education Administration Fund to the bureau for the purpose of funding 5 education administration positions, and would continue that fund in existence and rename it as the Private Postsecondary Education Administration Fund. The bill also would continue the existence of the continuously appropriated Student Tuition Recovery Fund, would provide that certain violations of the new act are punishable as infractions, and would provide procedures for the resolution of student claims under the former act. The bill would impose reporting requirements on the bureau and the Legislative Analyst's Office regarding compliance with the act.

The bill would impose various fees in connection with a private postsecondary institution's approval to operate under the act and would require those fees to be deposited in the Private Postsecondary Education Administration Fund, for expenditure, upon appropriation by the Legislature, by the bureau for the purposes of the act.

The bill would exempt various institutions from most of the provisions of the act, including an exemption for an institution that is accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.

The bill would repeal the California Private Postsecondary Education Act of 2009 on January 1, 2016.

Because this bill would establish new infractions, the bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 27 of the Business and Professions Code  
2 is amended to read:

3 27. (a) Each entity specified in subdivision (b) shall provide  
4 on the Internet information regarding the status of every license  
5 issued by that entity in accordance with the California Public  
6 Records Act (Chapter 3.5 (commencing with Section 6250) of  
7 Division 7 of Title 1 of the Government Code) and the Information  
8 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)  
9 of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public  
10 information to be provided on the Internet shall include information  
11 on suspensions and revocations of licenses issued by the entity  
12 and other related enforcement action taken by the entity relative  
13 to persons, businesses, or facilities subject to licensure or regulation  
14 by the entity. In providing information on the Internet, each entity  
15 shall comply with the Department of Consumer Affairs Guidelines  
16 for Access to Public Records. The information may not include  
17 personal information, including home telephone number, date of  
18 birth, or social security number. Each entity shall disclose a  
19 licensee's address of record. However, each entity shall allow a  
20 licensee to provide a post office box number or other alternate  
21 address, instead of his or her home address, as the address of  
22 record. This section shall not preclude an entity from also requiring  
23 a licensee, who has provided a post office box number or other  
24 alternative mailing address as his or her address of record, to  
25 provide a physical business address or residence address only for  
26 the entity's internal administrative use and not for disclosure as  
27 the licensee's address of record or disclosure on the Internet.

28 (b) Each of the following entities within the Department of  
29 Consumer Affairs shall comply with the requirements of this  
30 section:

31 (1) The Acupuncture Board shall disclose information on its  
32 licensees.

1 (2) The Board of Behavioral Sciences shall disclose information  
2 on its licensees, including marriage and family therapists, licensed  
3 clinical social workers, and licensed educational psychologists.

4 (3) The Dental Board of California shall disclose information  
5 on its licensees.

6 (4) The State Board of Optometry shall disclose information  
7 regarding certificates of registration to practice optometry,  
8 statements of licensure, optometric corporation registrations, branch  
9 office licenses, and fictitious name permits of their licensees.

10 (5) The Board for Professional Engineers and Land Surveyors  
11 shall disclose information on its registrants and licensees.

12 (6) The Structural Pest Control Board shall disclose information  
13 on its licensees, including applicators, field representatives, and  
14 operators in the areas of fumigation, general pest and wood  
15 destroying pests and organisms, and wood roof cleaning and  
16 treatment.

17 (7) The Bureau of Automotive Repair shall disclose information  
18 on its licensees, including auto repair dealers, smog stations, lamp  
19 and brake stations, smog check technicians, and smog inspection  
20 certification stations.

21 (8) The Bureau of Electronic and Appliance Repair shall disclose  
22 information on its licensees, including major appliance repair  
23 dealers, combination dealers (electronic and appliance), electronic  
24 repair dealers, service contract sellers, and service contract  
25 administrators.

26 (9) The Cemetery Program shall disclose information on its  
27 licensees, including cemetery brokers, cemetery salespersons,  
28 crematories, and cremated remains disposers.

29 (10) The Funeral Directors and Embalmers Program shall  
30 disclose information on its licensees, including embalmers, funeral  
31 establishments, and funeral directors.

32 (11) The Contractors' State License Board shall disclose  
33 information on its licensees in accordance with Chapter 9  
34 (commencing with Section 7000) of Division 3. In addition to  
35 information related to licenses as specified in subdivision (a), the  
36 board shall also disclose information provided to the board by the  
37 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

38 (12) The Board of Psychology shall disclose information on its  
39 licensees, including psychologists, psychological assistants, and  
40 registered psychologists.

1 (13) The Bureau for Private Postsecondary Education shall  
2 disclose information on private postsecondary institutions under  
3 its jurisdiction, including disclosure of notices to comply issued  
4 pursuant to Section 94935 of the Education Code.

5 (c) “Internet” for the purposes of this section has the meaning  
6 set forth in paragraph (6) of subdivision (e) of Section 17538.

7 SEC. 2. Section 101 of the Business and Professions Code, as  
8 amended by Section 1 of Chapter 31 of the Statutes of 2008, is  
9 amended to read:

10 101. The department is comprised of:

- 11 (a) The Dental Board of California.
- 12 (b) The Medical Board of California.
- 13 (c) The State Board of Optometry.
- 14 (d) The California State Board of Pharmacy.
- 15 (e) The Veterinary Medical Board.
- 16 (f) The California Board of Accountancy.
- 17 (g) The California Architects Board.
- 18 (h) The Bureau of Barbering and Cosmetology.
- 19 (i) The Board for Professional Engineers and Land Surveyors.
- 20 (j) The Contractors’ State License Board.
- 21 (k) The Bureau for Private Postsecondary Education.
- 22 (l) The Structural Pest Control Board.
- 23 (m) The Bureau of Home Furnishings and Thermal Insulation.
- 24 (n) The Board of Registered Nursing.
- 25 (o) The Board of Behavioral Sciences.
- 26 (p) The State Athletic Commission.
- 27 (q) The Cemetery and Funeral Bureau.
- 28 (r) The State Board of Guide Dogs for the Blind.
- 29 (s) The Bureau of Security and Investigative Services.
- 30 (t) The Court Reporters Board of California.
- 31 (u) The Board of Vocational Nursing and Psychiatric  
32 Technicians.
- 33 (v) The Landscape Architects Technical Committee.
- 34 (w) The Bureau of Electronic and Appliance Repair.
- 35 (x) The Division of Investigation.
- 36 (y) The Bureau of Automotive Repair.
- 37 (z) The State Board of Registration for Geologists and  
38 Geophysicists.
- 39 (aa) The Respiratory Care Board of California.
- 40 (ab) The Acupuncture Board.

- 1 (ac) The Board of Psychology.
- 2 (ad) The California Board of Podiatric Medicine.
- 3 (ae) The Physical Therapy Board of California.
- 4 (af) The Arbitration Review Program.
- 5 (ag) The Hearing Aid Dispensers Bureau.
- 6 (ah) The Physician Assistant Committee.
- 7 (ai) The Speech-Language Pathology and Audiology Board.
- 8 (aj) The California Board of Occupational Therapy.
- 9 (ak) The Osteopathic Medical Board of California.
- 10 (al) The Bureau of Naturopathic Medicine.
- 11 (am) The Dental Hygiene Committee of California.
- 12 (an) Any other boards, offices, or officers subject to its
- 13 jurisdiction by law.
- 14 SEC. 3. Section 146 of the Business and Professions Code is
- 15 amended to read:
- 16 146. (a) Notwithstanding any other provision of law, a
- 17 violation of any code section listed in subdivision (c) is an
- 18 infraction subject to the procedures described in Sections 19.6 and
- 19 19.7 of the Penal Code under either of the following circumstances:
- 20 (1) A complaint or a written notice to appear in court pursuant
- 21 to Chapter 5c (commencing with Section 853.5) of Title 3 of Part
- 22 2 of the Penal Code is filed in court charging the offense as an
- 23 infraction, unless the defendant, at the time he or she is arraigned,
- 24 after being advised of his or her rights, elects to have the case
- 25 proceed as a misdemeanor.
- 26 (2) The court, with the consent of the defendant and the
- 27 prosecution, determines that the offense is an infraction in which
- 28 event the case shall proceed as if the defendant has been arraigned
- 29 on an infraction complaint.
- 30 (b) Subdivision (a) does not apply to a violation of the code
- 31 sections listed in subdivision (c) if the defendant has had his or
- 32 her license, registration, or certificate previously revoked or
- 33 suspended.
- 34 (c) The following sections require registration, licensure,
- 35 certification, or other authorization in order to engage in certain
- 36 businesses or professions regulated by this code:
- 37 (1) Sections 2052 and 2054.
- 38 (2) Section 2630.
- 39 (3) Section 2903.
- 40 (4) Section 3660.

- 1 (5) Sections 3760 and 3761.
- 2 (6) Section 4080.
- 3 (7) Section 4825.
- 4 (8) Section 4935.
- 5 (9) Section 4980.
- 6 (10) Section 4996.
- 7 (11) Section 5536.
- 8 (12) Section 6704.
- 9 (13) Section 6980.10.
- 10 (14) Section 7317.
- 11 (15) Section 7502 or 7592.
- 12 (16) Section 7520.
- 13 (17) Section 7617 or 7641.
- 14 (18) Subdivision (a) of Section 7872.
- 15 (19) Section 8016.
- 16 (20) Section 8505.
- 17 (21) Section 8725.
- 18 (22) Section 9681.
- 19 (23) Section 9840.
- 20 (24) Subdivision (c) of Section 9891.24.
- 21 (25) Section 19049.

22 (d) Notwithstanding any other provision of law, a violation of  
23 any of the sections listed in subdivision (c), which is an infraction,  
24 is punishable by a fine of not less than two hundred fifty dollars  
25 (\$250) and not more than one thousand dollars (\$1,000). No portion  
26 of the minimum fine may be suspended by the court unless as a  
27 condition of that suspension the defendant is required to submit  
28 proof of a current valid license, registration, or certificate for the  
29 profession or vocation which was the basis for his or her  
30 conviction.

31 SEC. 4. Section 149 of the Business and Professions Code is  
32 amended to read:

33 149. (a) If, upon investigation, an agency designated in  
34 subdivision (e) has probable cause to believe that a person is  
35 advertising in a telephone directory with respect to the offering or  
36 performance of services, without being properly licensed by or  
37 registered with the agency to offer or perform those services, the  
38 agency may issue a citation under Section 148 containing an order  
39 of correction that requires the violator to do both of the following:

- 40 (1) Cease the unlawful advertising.

1 (2) Notify the telephone company furnishing services to the  
2 violator to disconnect the telephone service furnished to any  
3 telephone number contained in the unlawful advertising.

4 (b) This action is stayed if the person to whom a citation is  
5 issued under subdivision (a) notifies the agency in writing that he  
6 or she intends to contest the citation. The agency shall afford an  
7 opportunity for a hearing, as specified in Section 125.9.

8 (c) If the person to whom a citation and order of correction is  
9 issued under subdivision (a) fails to comply with the order of  
10 correction after that order is final, the agency shall inform the  
11 Public Utilities Commission of the violation and the Public Utilities  
12 Commission shall require the telephone corporation furnishing  
13 services to that person to disconnect the telephone service furnished  
14 to any telephone number contained in the unlawful advertising.

15 (d) The good faith compliance by a telephone corporation with  
16 an order of the Public Utilities Commission to terminate service  
17 issued pursuant to this section shall constitute a complete defense  
18 to any civil or criminal action brought against the telephone  
19 corporation arising from the termination of service.

20 (e) Subdivision (a) shall apply to the following boards, bureaus,  
21 committees, commissions, or programs:

- 22 (1) The Bureau of Barbering and Cosmetology.
- 23 (2) The Funeral Directors and Embalmers Program.
- 24 (3) The Veterinary Medical Board.
- 25 (4) The Hearing Aid Dispensers Advisory Commission.
- 26 (5) The Landscape Architects Technical Committee.
- 27 (6) The California Board of Podiatric Medicine.
- 28 (7) The Respiratory Care Board of California.
- 29 (8) The Bureau of Home Furnishings and Thermal Insulation.
- 30 (9) The Bureau of Security and Investigative Services.
- 31 (10) The Bureau of Electronic and Appliance Repair.
- 32 (11) The Bureau of Automotive Repair.
- 33 (12) The Tax Preparers Program.
- 34 (13) The California Architects Board.
- 35 (14) The Speech-Language Pathology and Audiology Board.
- 36 (15) The Board for Professional Engineers and Land Surveyors.
- 37 (16) The Board of Behavioral Sciences.
- 38 (17) The State Board for Geologists and Geophysicists.
- 39 (18) The Structural Pest Control Board.
- 40 (19) The Acupuncture Board.



1 (20) The Board of Psychology.

2 (21) The California Board of Accountancy.

3 (22) The Bureau of Naturopathic Medicine.

4 (23) The Bureau for Private Postsecondary Education.

5 SEC. 5. Section 473.1 of the Business and Professions Code  
6 is amended to read:

7 473.1. This chapter shall apply to all of the following:

8 (a) Every board, as defined in Section 22, that is scheduled to  
9 become inoperative and to be repealed on a specified date as  
10 provided by the specific act relating to the board.

11 (b) The Cemetery and Funeral Bureau.

12 SEC. 6. Chapter 8 (commencing with Section 94800) is added  
13 to Part 59 of Division 10 of Title 3 of the Education Code, to read:

14  
15 CHAPTER 8. PRIVATE POSTSECONDARY INSTITUTIONS

16  
17 Article 1. General Provisions

18  
19 94800. This chapter shall be known, and may be cited, as the  
20 California Private Postsecondary Education Act of 2009.

21 94800.5. Whenever a reference is made to the former Private  
22 Postsecondary Education and Student Protection Act, the former  
23 Private Postsecondary and Vocational Education Reform Act of  
24 1989, or the former Chapter 7 (commencing with Section 94700)  
25 of Part 59 of Division 10 of Title 3 of the Education Code, as it  
26 read on June 30, 2007, by the provisions of any statute or  
27 regulation, ~~it is to~~ *shall* be construed as referring to the provisions  
28 of this chapter. Whenever a reference is made to the former Bureau  
29 for Private Postsecondary and Vocational Education by the  
30 provisions of any statute or regulation, it shall be construed as  
31 referring to the Bureau for Private Postsecondary Education.

32 94801. The Legislature finds and declares all of the following:

33 (a) In 2007, more than 400,000 Californians attended more than  
34 1,500 private postsecondary schools in California.

35 (b) Private postsecondary schools can complement the public  
36 education system and help develop a trained workforce to meet  
37 the demands of California businesses and the economy.

38 (c) Numerous reports and studies have concluded that  
39 California's previous attempts at regulatory oversight of private  
40 postsecondary schools failed to ensure student protections or

1 provide effective oversight of private postsecondary schools.  
2 Previous laws and regulatory oversight were allowed to expire on  
3 June 30, 2007, with some skeletal functions, continued by urgency  
4 legislation, that were allowed to expire on June 30, 2008.

5 (d) It is the intent of the Legislature in enacting this chapter to  
6 ensure all of the following:

7 (1) Minimum educational quality standards and opportunities  
8 for success for California students attending private postsecondary  
9 schools in California.

10 (2) Meaningful student protections through essential avenues  
11 of recourse for students.

12 (3) A regulatory structure that provides for an appropriate level  
13 of oversight.

14 (4) A regulatory governance structure that ensures that all  
15 stakeholders have a voice and are heard in policymaking by the  
16 new bureau created by this chapter.

17 (5) A regulatory governance structure that provides for  
18 accountability and oversight by the Legislature through program  
19 monitoring and periodic reports.

20 (e) The Legislature advises future policymakers to continually  
21 and carefully evaluate this chapter and its administration and  
22 enforcement. Where there are deficiencies in the law or regulatory  
23 oversight, the Governor and the Legislature should act quickly to  
24 correct them.

## 25 Article 2. Transition Provisions

26  
27  
28 94802. (a) An institution that had a valid approval to operate  
29 on June 30, 2007, issued by the former Bureau for Private  
30 Postsecondary and Vocational Education pursuant to former  
31 Chapter 7 (commencing with Section 94700) of Part 59 of Division  
32 10 of Title 3 of the Education Code, as it read on June 30, 2007,  
33 shall maintain that approval under this chapter. For the purposes  
34 of this chapter, the approval to operate shall be valid for three  
35 calendar years after the expiration date of the approval, as it read  
36 on June 30, 2007.

37 (b) Applications to renew an approval to operate that had been  
38 pending action before the former Bureau for Private Postsecondary  
39 and Vocational Education on June 30, 2007, shall be deemed  
40 processed as follows:

1 (1) Applications received prior to January 1, 2006, shall be  
2 granted an approval to operate until 2012 to coincide with the  
3 anniversary date of the current approval to operate date.

4 (2) Applications received after January 1, 2006, shall be granted  
5 an approval to operate until 2013 to coincide with the anniversary  
6 date of the current approval to operate.

7 (c) Students seeking to enroll in institutions approved under  
8 subdivision (b) shall be notified in writing by the institution, prior  
9 to executing an enrollment agreement, that, although the institution  
10 was approved to operate by the former Bureau for Private  
11 Postsecondary and Vocational Education, the institution's  
12 application for reapproval to operate has not been reviewed by the  
13 bureau pursuant to this chapter.

14 94803. The bureau shall, by emergency regulation, amend, and  
15 repeal as necessary, the regulations, as they read on June 30, 2007,  
16 in Division 7.5 (commencing with Section 70000) of Title 5 of the  
17 California Code of Regulations, to conform to this chapter no later  
18 than February 1, 2010. These emergency regulations shall become  
19 permanent through the regular rulemaking process within one year  
20 of the enactment of this chapter.

21 94804. (a) Each unresolved matter submitted to the former  
22 Bureau for Private Postsecondary and Vocational Education prior  
23 to July 1, 2007, shall be deemed to remain pending before the  
24 bureau irrespective of any applicable deadlines. With respect to  
25 any deadline applicable to a pending matter, no time shall be  
26 deemed to have elapsed from July 1, 2007, to January 1, 2010,  
27 inclusive.

28 (1) For the purposes of this subdivision, "matter" includes, but  
29 is not limited to, an appeal, a complaint, a claim, an evaluation, a  
30 hearing, or an investigation.

31 (2) For the purposes of this subdivision, "matter" does not  
32 include a Student Tuition Recovery Fund claim.

33 (b) Student complaints submitted from July 1, 2007, to  
34 December 31, 2009, inclusive, shall continue to be duly recorded  
35 and investigated by the bureau.

36 94805. For the performance of the duties and exercise of the  
37 powers vested in the bureau, the bureau shall have possession and  
38 control of all records, papers, offices, equipment, supplies, or other  
39 property, real or personal, held for the benefit or use by the former  
40 Bureau for Private Postsecondary and Vocational Education.

1 94806. The Private Postsecondary and Vocational Education  
2 Administration Fund established by former Section 94932 of the  
3 Education Code, and extended by Chapter 635 of the Statutes of  
4 2007, is continued in existence, and is renamed the Private  
5 Postsecondary Education Administration Fund.

6 94807. The Student Tuition Recovery Fund established by  
7 former Section 94944 of the Education Code, and extended by  
8 Chapter 635 of the Statutes of 2007, is continued in existence.

9 94808. (a) Any Student Tuition Recovery Fund claims received  
10 by the former Bureau for Private Postsecondary and Vocational  
11 Education prior to July 1, 2007, that were not processed by the  
12 former Bureau for Private Postsecondary and Vocational Education  
13 and were not paid by the ~~department~~ *Department of Consumer*  
14 *Affairs* from July 1, 2007, to June 30, 2008, inclusive, shall be  
15 processed by the bureau.

16 (b) Any Student Tuition Recovery Fund claims received by the  
17 ~~department~~ *Department of Consumer Affairs* from July 1, 2007,  
18 to December 31, 2009, inclusive, shall be processed by the bureau.

19 (c) Student Tuition Recovery Fund claims filed with, and  
20 approved by, the former Bureau for Private Postsecondary and  
21 Vocational Education as of June 30, 2007, if not already paid, shall  
22 be paid before any claims approved after that date.

23 (d) The student's right to recovery from the Student Tuition  
24 Recovery Fund shall be based on the law that was in effect when  
25 the student enrolled and a fee for the fund was charged as a part  
26 of tuition costs, even though that law has become inoperative, been  
27 repealed, or otherwise expired.

28 94809. (a) An institution that had an application for an  
29 approval to operate pending with the former Bureau for Private  
30 Postsecondary and Vocational Education on June 30, 2007, may  
31 continue to operate, but shall comply with, and is subject to, this  
32 chapter, and shall submit an application for an approval to operate  
33 to the bureau pursuant to this chapter within six months of that  
34 application becoming available.

35 (b) An institution that did not have a valid approval to operate  
36 issued by, and did not have an application for approval to operate  
37 pending with, the former Bureau for Private Postsecondary and  
38 Vocational Education on June 30, 2007, that began operations on  
39 or after July 1, 2007, may continue to operate, but shall comply  
40 with, and is subject to, this chapter, and shall submit an application

1 for an approval to operate to the bureau pursuant to this chapter  
2 within six months of that application becoming available.

3 (c) Students seeking to enroll in institutions approved under  
4 subdivisions (a) and (b) shall be notified by the institution, in  
5 writing and prior to executing an enrollment agreement, that the  
6 institution's application for approval to operate has not been  
7 reviewed by the bureau.

8 (d) An institution that is permitted to operate pursuant to  
9 subdivision (a) or (b) shall not use the terms "approval,"  
10 "approved," "approval to operate," or "approved to operate"  
11 without clearly stating that the institution's application for approval  
12 has not been reviewed by the bureau.

13 94809.5. Notwithstanding any other provision of law:

14 (a) For any claims that a student had based on a violation of the  
15 Private Postsecondary and Vocational Education Reform Act of  
16 1989 on or before June 30, 2007, the period of time from June 30,  
17 2007, to December 31, 2009, inclusive, shall be excluded in  
18 determining the deadline or the statute of limitation for filing any  
19 claim with the bureau or a lawsuit based on any claim.

20 (b) All claims described in subdivision (a), except claims to the  
21 Student Tuition Recovery Fund, including those contained in a  
22 lawsuit or other legal action, shall be determined or adjudicated  
23 based on the law that was in effect when the violations or events  
24 took place, even though those provisions have become inoperative,  
25 been repealed, or otherwise expired.

26 94809.6. (a) Notwithstanding the inoperative status or repeal  
27 of the former Private Postsecondary and Vocational Education  
28 Reform Act of 1989 on or after July 1, 2007, any claim or cause  
29 of action in any manner based on the act that was commenced on  
30 or before June 30, 2007, whether or not reduced to a final  
31 judgment, shall be preserved, and any remedy that was or could  
32 have been ordered to redress a violation of the act on or before  
33 June 30, 2007, may be ordered or maintained thereafter. If a final  
34 judgment was obtained in an action commenced on or after July  
35 1, 2007, under the authority of Chapter 635 of the Statutes of 2007,  
36 the final judgment and any legal remedy that was or could be  
37 maintained on or after July 1, 2007, under that statute, shall be  
38 preserved and maintained thereafter.

39 (b) The rights, obligations, claims, causes of action, and  
40 remedies described in subdivision (a) shall be determined by the

1 provisions of the former Private Postsecondary and Vocational  
2 Education Reform Act of 1989 in effect on or before June 30,  
3 2007, notwithstanding the inoperative status or repeal of the former  
4 Private Postsecondary and Vocational Education Reform Act of  
5 1989 on or after July 1, 2007.

6  
7 Article 3. Definitions  
8

9 94810. Unless the context requires otherwise, the definitions  
10 set forth in this article govern the construction of this chapter.

11 94811. “Ability-to-benefit student” means a student who does  
12 not have a certificate of graduation from a school providing  
13 secondary education, or a recognized equivalent of that certificate.

14 94812. “Academic year” means a period, including a minimum  
15 of 30 weeks of instructional time, in which a full-time student  
16 attending an institution that measures educational program length  
17 in credit hours completes 24 semester or trimester hours or 36  
18 quarter hours, or an institution that measures educational program  
19 length in clock hours completes at least 900 clock hours.

20 94813. “Accredited” means an institution is recognized or  
21 approved by an accrediting agency recognized by the United States  
22 Department of Education.

23 94814. “Accrediting agency” is an agency recognized by the  
24 United States Department of Education.

25 94815. “Annual report” means the yearly report required to be  
26 filed by institutions.

27 94816. “Applicant” means an institution that has submitted an  
28 application to the bureau for an approval to operate or for a renewal  
29 of an approval to operate.

30 94817. “Approval to operate” or “approval” means the  
31 authorization pursuant to this chapter to offer to the public and to  
32 provide postsecondary educational programs, as well as the written  
33 document issued to an institution signifying its approval to operate.

34 94817.5. “Approved to operate” or “approved” means that an  
35 institution has received authorization pursuant to this chapter to  
36 offer to the public and to provide postsecondary educational  
37 programs.

38 94818. “Avocational education” means education offered for  
39 the purpose of personal entertainment, pleasure, or enjoyment.

1 94819. “Branch campus” means a site other than the main  
2 campus or a satellite location.

3 94820. “Bureau” means the Bureau for Private Postsecondary  
4 Education in the Department of Consumer Affairs.

5 94821. “Change in business organization form” means a change  
6 of a business organization’s original form, including, for example,  
7 a situation in which a sole proprietorship becomes a partnership  
8 or corporation, or when a business organization becomes a  
9 nonprofit public benefit corporation or forms a nonprofit public  
10 benefit corporation as a subsidiary to provide the educational  
11 programs for which the business organization has an approval to  
12 operate.

13 ~~94822. “Change of location” means a move or relocation more~~  
14 ~~than 10 miles from the site at which the institution offers~~  
15 ~~instruction.~~

16 94822. “*Change in control*” means a change in the ownership  
17 of an institution in which a person who previously did not own at  
18 least 25 percent of the stock or interest in the institution or its  
19 parent company acquires ownership of at least 25 percent of the  
20 stock or interest in the institution or its parent company. “*Change*  
21 *in control*” does not include an ownership change between family  
22 members involving less than 51 percent of the stock or interest in  
23 the institution.

24 94823. “~~Change of~~ in ownership” means the acquisition by a  
25 person of more than 50 percent of an interest in or stock of a parent  
26 company.

27 94823.5. “*Change of location*” means a move or relocation  
28 more than 10 miles from the site at which the institution offers  
29 instruction.

30 94824. “Class day” means a day a student is scheduled to attend  
31 a class session, or for students receiving instruction through  
32 distance education, any calendar day except Saturday, Sunday, or  
33 any holiday enumerated in Section 6700 of the Government Code.

34 94825. “Class session” means part of a class day that an  
35 institution conducts instruction in a particular subject.

36 94826. “Commence operations” means an institution has begun  
37 to provide educational programs.

38 94827. “Continuing education” means instruction in subjects  
39 that licensees are required to take solely for the purpose of

1 continued licensure, or to enhance their skills and knowledge within  
2 their particular profession, occupation, trade, or career field.

3 94828. “Curriculum” means an organized set of courses or  
4 modules of instruction that are prerequisites to the award of a  
5 degree or diploma.

6 94829. “Default” means failure of a borrower and endorser, if  
7 any, to make an installment payment for a loan received under the  
8 federal student financial aid programs when due, or to meet other  
9 terms of the promissory note, provided that this failure persists for  
10 270 days if payment is due monthly or 360 days if payment is due  
11 less frequently.

12 94830. “Degree” means a recognized educational credential  
13 awarded by an institution that signifies satisfactory completion of  
14 the requirements of a postsecondary educational program at the  
15 associate’s level or above.

16 94831. “Degree title” means the designated subject area of the  
17 educational program that appears on the face of the document  
18 awarded to a student.

19 94832. “Diploma” means a recognized educational credential,  
20 other than a degree, awarded by an institution that signifies  
21 satisfactory completion of the requirements of a postsecondary  
22 educational program below the associate’s level. A diploma is also  
23 known as a certificate.

24 94833. “Director” means the Director of Consumer Affairs.

25 94834. “Distance education” means transmission of instruction  
26 to students at a location separate from the institution.

27 94835. “Document of record” means any document required  
28 to be maintained by this chapter.

29 94836. “Educational materials” means textbooks, supplies,  
30 implements, tools, machinery, computers, electronic devices, or  
31 other goods related to any education, training, or experience  
32 required for participation in an educational program.

33 94837. “Educational program” means a planned sequence  
34 composed of a single course or module, or set of related courses  
35 or modules, that provides the education, training, skills, and  
36 experience leading to the award of a recognized educational  
37 credential such as a degree or diploma.

38 94838. “Educational program approval” means authorization  
39 by the bureau, another government agency of this state, or a federal



1 government agency, to provide educational programs, and is an  
2 element of an approval to operate.

3 94839. "Enrollment" means the execution of an enrollment  
4 agreement.

5 94840. "Enrollment agreement" means a written contract  
6 between a student and institution concerning an educational  
7 program.

8 94841. "Faculty" means the instructional staff of an institution,  
9 whether these persons are employees or independent contractors.

10 94842. "Graduate" means an individual who has been awarded  
11 a degree or diploma.

12 94843. "Institution" means any private postsecondary  
13 educational institution, including its branch campuses and satellite  
14 locations.

15 94844. "Institutional charges" means charges for an educational  
16 program paid directly to an institution.

17 94845. "Institution manager" means an individual who is a  
18 member of an institution's management.

19 94846. "Instruction" means an institution's specific, formal  
20 arrangements in which its faculty present a part of the curriculum.

21 94847. "License and examination preparation" means  
22 instruction designed to assist students to prepare for an examination  
23 for licensure, or offered for the sole purpose of providing  
24 continuing education in subjects licensees are required to take as  
25 a condition of continued licensure.

26 94848. "Licensure" includes any license, certificate, permit,  
27 or similar credential that a person must hold to lawfully engage in  
28 a profession, occupation, trade, or career field.

29 94849. "Main campus" means the institution's sole or primary  
30 teaching location.

31 94850. "Noninstitutional charges" means charges for an  
32 educational program paid to an entity other than an institution that  
33 are specifically required for participation in an educational  
34 program.

35 94851. "Owner" means an individual in the case of a sole  
36 proprietorship, partners in a partnership, members in a limited  
37 liability company, or shareholders in a corporation.

38 94852. "Ownership" means a legal or equitable interest in an  
39 institution, including ownership of assets or stock.

1 94853. “Parent company” means a partnership, limited liability  
2 company, or corporation that owns more than 50 percent of the  
3 stock or interest in an institution.

4 94854. “Period of attendance” means a semester, quarter, or  
5 trimester for educational programs measured in credit hours and  
6 the entire educational program if measured in clock hours.

7 94855. “Person” means a natural person or a business  
8 organization, irrespective of its form.

9 94856. “Person in control” means a person who, by his or her  
10 position’s authority or conduct, directs the management of an  
11 institution.

12 94857. “Postsecondary education” means a formal institutional  
13 educational program whose curriculum is designed primarily for  
14 students who have completed or terminated their secondary  
15 education or are beyond the compulsory age of secondary  
16 education, including programs whose purpose is academic,  
17 vocational, or continuing professional education.

18 94858. “Private postsecondary educational institution” means  
19 a private entity with a physical presence in this state that offers  
20 postsecondary education to the public for an institutional charge.

21 94859. “Recruiter” means an employee of an institution whose  
22 principal job responsibilities are the recruitment of students other  
23 than on the institution’s premises.

24 94860. “Recruitment” means actions taken by recruiters seeking  
25 enrollment of students.

26 94861. “Reporting period” means the institution’s fiscal year  
27 or any yearly period designated by the bureau to be covered in the  
28 institution’s annual report.

29 94862. “Satellite location” means an auxiliary classroom or  
30 teaching site within 50 miles of the branch or main location.

31 ~~94864. “Change in control” means a change in the ownership~~  
32 ~~of an institution where a person who previously did not own at~~  
33 ~~least 25 percent of the stock or interest in an institution or its parent~~  
34 ~~company acquires ownership of at least 25 percent of the stock or~~  
35 ~~interest in the institution or its parent company. Shift in control~~  
36 ~~does not include an ownership change between family members~~  
37 ~~involving less than 51 percent of the stock or interest in the~~  
38 ~~institution.~~

39 94865. “Site” means a main or branch campus or satellite  
40 location.

1 94866. “Teach-out” means the arrangements an institution  
2 makes for its students to complete their educational programs when  
3 the institution ceases to operate.

4 94867. “Third-party payer” means an employer, government  
5 program, or other entity that pays a student’s total charges when  
6 no separate agreement for the repayment of the charges exists  
7 between the third-party payer and the student.

8 94868. “To offer to the public” means to advertise, publicize,  
9 solicit, or recruit.

10 94869. “To operate” means to establish, keep, or maintain any  
11 facility or location in this state where, or from which, or through  
12 which, postsecondary educational programs are provided.

13 94870. “Total charges” means the sum of institutional and  
14 noninstitutional charges.

15 94871. “Year” means a calendar year.

16  
17 Article 4. Exemptions  
18

19 94874. The following are exempt from this chapter:

20 (a) An institution that offers solely avocational or recreational  
21 educational programs.

22 (b) An institution offering educational programs sponsored by  
23 a bona fide trade, business, professional, or fraternal organization,  
24 solely for that organization’s membership.

25 (c) A postsecondary educational institution established, operated,  
26 and governed by the federal government or by this state or its  
27 political subdivisions.

28 (d) An institution offering either of the following:

29 (1) Test preparation for examinations required for admission to  
30 a postsecondary educational institution.

31 (2) Continuing education or license examination preparation,  
32 if the institution or the program is approved, certified, or sponsored  
33 by any of the following:

34 (A) A government agency, other than the bureau, that licenses  
35 persons in a particular profession, occupation, trade, or career field.

36 (B) A state-recognized professional licensing body, such as the  
37 State Bar of California, that licenses persons in a particular  
38 profession, occupation, trade, or career field.

39 (C) A bona fide trade, business, or professional organization.

(e) (1) An institution owned, controlled, and operated and maintained by a bona fide church, religious denomination, or religious organization composed of multid denominational members of the same well-recognized religion, lawfully operating as a nonprofit religious corporation pursuant to Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code, that meets all of the following requirements:

(A) The instruction is limited to the principles of that church, religious denomination, or religious organization, or to courses offered pursuant to Section 2789 of Business and Professions Code.

(B) The diploma or degree is limited to evidence of completion of that education.

(2) An institution operating under this subdivision shall offer degrees and diplomas only in the beliefs and practices of the church, religious denomination, or religious organization.

(3) An institution operating under this subdivision shall not award degrees in any area of physical science.

(4) Any degree or diploma granted under this subdivision shall contain on its face, in the written description of the title of the degree being conferred, a reference to the theological or religious aspect of the degree's subject area.

(5) A degree awarded under this subdivision shall reflect the nature of the degree title, such as "associate of religious studies," "bachelor of religious studies," "master of divinity," or "doctor of divinity."

(f) An institution that solely provides educational programs for total charges of two thousand five hundred dollars (\$2,500) or less when no part of the total charges is paid from state or federal student financial aid programs. The bureau may adjust this cost threshold based upon the California Consumer Price Index and post notification of the adjusted cost threshold on its Internet Web site, as the bureau determines, through the promulgation of regulations, that the adjustment is consistent with the intent of this chapter.

(g) A law school or institution that solely offers education programs in law leading to a Juris Doctor (J.D.) degree, Bachelor of Laws (LL.B.) degree, or other law study degree that is regulated by the Committee of Bar Examiners pursuant to Section 6046.7 of the Business and Professions Code. An institution offering education services in addition to offering a Juris Doctor (J.D.)

1 degree, Bachelor of Laws (LL.B.) degree, or other law study degree  
2 that is regulated by the Committee of Bar Examiners, and which  
3 is not otherwise exempt under this section, is subject to this chapter.

4 *(h) A nonprofit public benefit corporation that satisfies all of*  
5 *the following criteria:*

6 *(1) Is qualified under Section 501(c)(3) of the United States*  
7 *Internal Revenue Code.*

8 *(2) Is organized specifically to provide workforce development*  
9 *or rehabilitation services.*

10 *(3) Is accredited by an accrediting organization for workforce*  
11 *development or rehabilitation services recognized by the*  
12 *Department of Rehabilitation.*

13 ~~(h)~~

14 *(i) An institution that is accredited by the Accrediting*  
15 *Commission for Senior Colleges and Universities, Western*  
16 *Association of Schools and Colleges, or the Accrediting*  
17 *Commission for Community and Junior Colleges, Western*  
18 *Association of Schools and Colleges.*

19 94874.5. Notwithstanding Section 94874, an institution that is  
20 otherwise exempt from this chapter shall comply with the  
21 requirements of Section 94927.5.

22 94874.7. The bureau shall establish, by regulation, a process  
23 pursuant to which an institution that is exempt from this chapter  
24 may request, and obtain, from the bureau verification that the  
25 institution is exempt. The bureau shall establish a reasonable fee  
26 to reimburse the bureau's costs associated with the implementation  
27 of this section.

28  
29 Article 5. Bureau Powers and Duties  
30

31 94875. The Bureau for Private Postsecondary Education, as  
32 established by Section 6 of Chapter 635 of the Statutes of 2007,  
33 is continued in existence and shall commence operations. This  
34 chapter establishes the functions and responsibilities of the bureau,  
35 for the purposes of Section 6 of Chapter 635 of the Statutes of  
36 2007. The bureau shall regulate private postsecondary educational  
37 institutions through the powers granted, and duties imposed, by  
38 this chapter. In exercising its powers, and performing its duties,  
39 the protection of the public shall be the bureau's highest priority.

1 If protection of the public is inconsistent with other interests sought  
2 to be promoted, the protection of the public shall be paramount.

3 94876. (a) The powers and duties set forth in this chapter are  
4 vested in the Director of Consumer Affairs, who may delegate  
5 them to a bureau chief, subject to the provisions of this section.

6 (b) The bureau chief shall be appointed by the Governor, and  
7 is exempt from the State Civil Service Act pursuant to Part 2  
8 (commencing with Section 18500) of Division 5 of Title 2 of the  
9 Government Code.

10 (c) Each power granted to, or duty imposed upon, the bureau  
11 under this chapter shall be exercised and performed in the name  
12 of the bureau, subject to any conditions and limitations the director  
13 may prescribe. The bureau chief may delegate any powers or duties  
14 to a designee.

15 (d) As may be necessary to carry out this chapter, the director,  
16 in accordance with the State Civil Service Act, may appoint and  
17 fix the compensation of personnel.

18 94877. (a) The bureau shall adopt, on or before January 1,  
19 2011, and shall enforce, regulations to implement this chapter  
20 pursuant to the Administrative Procedure Act in Chapter 3.5  
21 (commencing with Section 11340) of Part 1 of Division 3 of Title  
22 2 of the Government Code.

23 (b) The bureau shall develop and implement an enforcement  
24 program, pursuant to Article 18 (commencing with Section 94932)  
25 to implement this chapter. The enforcement program shall include  
26 a plan for investigating complaints filed with the bureau.

27 (c) The bureau shall establish a program to proactively identify  
28 unlicensed institutions and take all appropriate legal action.

29 94878. (a) On or before June 30, 2010, the bureau shall  
30 establish an Internet Web site that includes at least all of the  
31 following information:

32 (1) An explanation of the bureau's transition plan for the  
33 reconstituted bureau and an explanation of the bureau's scope of  
34 authority.

35 (2) (A) A directory of approved institutions, and a link, if  
36 feasible, to the Internet Web site of each institution.

37 (B) For each institution, the directory shall include all of the  
38 following information:

39 (i) The status of the institution's approval to operate.

1 (ii) The information provided by the institutions including, but  
2 not limited to, ~~all of the following:~~ in the annual report, as required  
3 by Section 94934, including the school catalog and the Student  
4 Performance Fact Sheet.

5 (iii) The disciplinary history of the institution pursuant to  
6 subdivision (b) of Section 94884.

7 (iv) A notice to students that, upon request to the bureau, the  
8 student may receive a summary of all complaints within the last  
9 five years against an institution that have reached final disposition,  
10 pursuant to subdivision (a) of Section 94884.

11 (b) The bureau shall maintain the Internet Web site described  
12 in subdivision (a). The bureau shall ensure that the information  
13 specified in subdivision (a) is kept current. The bureau shall update  
14 the Internet Web site at least annually, to coincide with the  
15 submission of annual reports by the institutions pursuant to Section  
16 94934.

17 (c) In addition to maintaining the Internet Web site described  
18 in subdivision (a), the bureau may provide the information  
19 described in paragraph (2) of subdivision (a) to the California  
20 Postsecondary Education Commission (CPEC), and the CPEC  
21 may include that information in an Internet Web site directory of  
22 school performance data maintained by the CPEC.

23 94879. The bureau shall conduct an outreach program to  
24 secondary school students as well as prospective and current private  
25 postsecondary students, to provide them with information on how  
26 to best select a private postsecondary institution, how to enter into  
27 enrollment agreements, how to make informed decisions in the  
28 private postsecondary education marketplace, and how to contact  
29 the bureau for assistance. The bureau may accomplish the purposes  
30 of this section in cooperation with the department.

31 94880. The bureau shall appoint an advisory committee that  
32 shall consist of, but not necessarily be limited to, representatives  
33 of institutions, student representatives, and employers who hire  
34 students.

35 94881. The bureau may conduct workshops to provide  
36 applicants and institutions information on application processes,  
37 compliance with this chapter, best practices for providing  
38 postsecondary educational programs, and other subjects concerning  
39 postsecondary education.

1 94882. The bureau may empanel visiting committees to assist  
2 in evaluating an institution's application for an approval to operate.  
3 The members of visiting committees shall serve at no expense to  
4 the state, except that the bureau may reimburse the members of  
5 visiting committees for actual travel and per diem expenses  
6 incurred during the evaluation. The bureau may seek  
7 reimbursement for the travel and per diem costs from the institution  
8 that is the subject of an evaluation.

9 94883. (a) Any individual serving on a visiting committee  
10 who provides information to the bureau, or its staff, in the course  
11 of evaluating any institution, or who testifies in any administrative  
12 hearing arising under this chapter, is entitled to a defense and  
13 indemnification in any action arising out of the information or  
14 testimony provided as if he or she were a public employee.

15 (b) Any defense and indemnification shall be solely with respect  
16 to the action pursuant to Article 4 (commencing with Section 825)  
17 of Chapter 1 of Part 2 of, and Part 7 (commencing with Section  
18 995) of Division 3.6 of Title 1 of, the Government Code.

19 94884. (a) For all complaints that have reached final  
20 disposition, the bureau shall, upon request, make available to  
21 members of the public a summary of the nature and disposition of  
22 complaints against an institution within the last five years.

23 (b) The bureau is subject to Section 27 of the Business and  
24 Professions Code.

#### 25 26 Article 6. Approval to Operate 27

28 94885. The bureau shall, by January 1, 2011, adopt by  
29 regulation minimum operating standards for an institution that  
30 shall reasonably ensure that all of the following occur:

31 (a) The content of each educational program can achieve its  
32 stated objective.

33 (b) The institution maintains specific written standards for  
34 student admissions for each educational program and those  
35 standards are related to the particular educational program.

36 (c) The facilities, instructional equipment, and materials are  
37 sufficient to enable students to achieve the educational program's  
38 goals.

39 (d) The institution maintains a withdrawal policy and provides  
40 refunds.



1 (e) The directors, administrators, and faculty are properly  
2 qualified.

3 (f) The institution is financially sound and capable of fulfilling  
4 its commitments to students.

5 (g) That, upon satisfactory completion of an educational  
6 program, the institution gives students a document signifying the  
7 degree or diploma awarded.

8 (h) Adequate records and standard transcripts are maintained  
9 and are available to students.

10 (i) The institution is maintained and operated in compliance  
11 with this chapter and all other applicable ordinances and laws.

12 94886. Except as exempted in Article 4 (commencing with  
13 Section 94874) or in compliance with the transition provisions in  
14 Article 2 (commencing with Section 94802), a person shall not  
15 open, conduct, or do business as a private postsecondary  
16 educational institution in this state without obtaining an approval  
17 to operate under this chapter.

18 94887. An approval to operate shall be granted only after an  
19 applicant has presented sufficient evidence to the bureau, and the  
20 bureau has independently verified the information provided by the  
21 applicant through site visits or other methods deemed appropriate  
22 by the bureau, that the applicant has the capacity to satisfy the  
23 minimum operating standards. The bureau shall deny an application  
24 for an approval to operate if the application does not satisfy those  
25 standards.

26 94888. (a) The bureau shall, by January 1, 2011, adopt by  
27 regulation both of the following:

28 (1) The process and procedures whereby an institution seeking  
29 approval to operate may apply for and obtain an approval to  
30 operate.

31 (2) The process and procedures governing the bureau's approval  
32 and denial of applications for approval to operate, including the  
33 process and procedures whereby an applicant for which an  
34 application has been denied may appeal that denial.

35 (b) The bureau shall, by regulation, establish a process for  
36 issuing a notification of a denial of an approval to operate to an  
37 institution that submits an application for approval to operate and  
38 for which that application is denied. The notification of denial  
39 shall include a statement of reasons for the denial.

1 94889. Except as provided in subdivision (b) of Section 94890,  
2 an approval to operate shall be for a term of five years.

3 94890. (a) (1) The bureau shall grant an institution that is  
4 accredited an approval to operate by means of its accreditation.

5 (2) The bureau shall, by January 1, 2011, adopt by regulation,  
6 the process and procedures whereby an institution that is accredited  
7 may apply for and obtain an approval by means of that  
8 accreditation.

9 (b) The term of an approval to operate pursuant to this section  
10 shall be coterminous with the term of accreditation. Upon renewal  
11 of the institution's accreditation, the institution shall submit  
12 verification to the bureau, on a form provided by the bureau, that  
13 the institution's accreditation has been renewed.

14 (c) Institutions that are granted an approval to operate by means  
15 of the institution's accreditation shall comply with all other  
16 applicable requirements in this chapter.

17 94891. (a) The bureau shall, by January 1, 2011, adopt by  
18 regulation the process and procedures whereby an institution may  
19 obtain a renewal of an approval to operate.

20 (b) To be granted a renewal of an approval to operate, the  
21 institution shall demonstrate its continued capacity to meet the  
22 minimum operating standards.

23 94892. If an agency of this state other than the bureau or of  
24 the federal government provides an approval to offer an educational  
25 program and the institution already has a valid approval to operate  
26 issued by the bureau, that agency's educational program approval  
27 may satisfy the requirements of this article without any further  
28 review by the bureau. The bureau may incorporate that educational  
29 program into the institution's approval to operate when the bureau  
30 receives documentation signifying the conferral of the educational  
31 program approval by that agency.

#### 32 Article 7. Substantive Changes to an Approval to Operate

33 94893. If an institution intends to make a substantive change  
34 to its approval to operate, the institution shall receive prior  
35 authorization from the bureau. Except as provided in subdivision  
36 (a) of Section 94896, if the institution makes the substantive change  
37 without prior bureau authorization, the institution's approval to  
38 operate may be suspended or revoked.  
39  
40

1 94894. The following changes to an approval to operate are  
2 considered substantive changes and require prior authorization:

3 (a) A change in educational objectives, including an addition  
4 of a new diploma or a degree educational program unrelated to  
5 the approved educational programs offered by the institution.

6 (b) A change in ownership.

7 (c) A change in control.

8 (d) A change in business organization form.

9 (e) A change of location.

10 (f) A change of name.

11 (g) A significant change in the method of instructional delivery.

12 (h) An addition of a separate branch more than five miles from  
13 the main or branch campus.

14 94895. The bureau shall, by January 1, 2011, adopt by  
15 regulation the process and procedures whereby an institution shall  
16 seek authorization for substantive changes to an approval to  
17 operate.

18 94896. (a) An institution that has been granted an approval to  
19 operate by means of accreditation shall only make a substantive  
20 change in accordance with the institution's accreditation standards.

21 (b) The institution shall notify the bureau of the substantive  
22 change on a form provided by the bureau.

23  
24 Article 8. Fair Business Practices  
25

26 94897. An institution shall not do any of the following:

27 (a) Use, or allow the use of, any reproduction or facsimile of  
28 the Great Seal of the State of California on a diploma.

29 (b) Promise or guarantee employment, or otherwise overstate  
30 the availability of jobs upon graduation.

31 (c) Advertise concerning job availability, degree of skill, or  
32 length of time required to learn a trade or skill unless the  
33 information is accurate and not misleading.

34 (d) Advertise, or indicate in promotional material, without  
35 including the fact that the educational programs are delivered by  
36 means of distance education if the educational programs are so  
37 delivered.

38 (e) Advertise, or indicate in promotional material, that the  
39 institution is accredited, unless the institution has been accredited  
40 by an accrediting agency.

1 (f) Solicit students for enrollment by causing an advertisement  
2 to be published in “help wanted” columns in a magazine,  
3 newspaper, or publication, or use “blind” advertising that fails to  
4 identify the institution.

5 (g) Offer to compensate a student to act as an agent of the  
6 institution with regard to the solicitation, referral, or recruitment  
7 of any person for enrollment in the institution, except that an  
8 institution may award a token gift to a student for referring an  
9 individual, provided that the gift is not in the form of money, no  
10 more than one gift is provided annually to a student, and the gift’s  
11 cost is not more than one hundred dollars (\$100).

12 (h) Pay any consideration to a person to induce that person to  
13 sign an enrollment agreement for an educational program.

14 (i) Use a name in any manner improperly implying any of the  
15 following:

16 (1) The institution is affiliated with any government agency,  
17 public or private corporation, agency, or association if it is not, in  
18 fact, thus affiliated.

19 (2) The institution is a public institution.

20 (3) The institution grants degrees, if the institution does not  
21 grant degrees.

22 (j) In any manner make an untrue or misleading change in, or  
23 untrue or misleading statement related to, a test score, grade or  
24 record of grades, attendance record, record indicating student  
25 completion, placement, employment, salaries, or financial  
26 information, including any of the following:

27 (1) A financial report filed with the bureau.

28 (2) Information or records relating to the student’s eligibility  
29 for student financial aid at the institution.

30 (3) Any other record or document required by this chapter or  
31 by the bureau.

32 (k) Willfully falsify, destroy, or conceal any document of record  
33 while that document of record is required to be maintained by this  
34 chapter.

35 (l) Use the terms “approval,” “approved,” “approval to operate,”  
36 or “approved to operate” without stating clearly and conspicuously  
37 that approval to operate means compliance with state standards as  
38 set forth in this chapter. If the bureau has granted an institution  
39 approval to operate, the institution may indicate that the institution

1 is “licensed” or “licensed to operate,” but may not state or imply  
2 either of the following:

3 (1) The institution or its educational programs are endorsed or  
4 recommended by the state or by the bureau.

5 (2) The approval to operate indicates that the institution exceeds  
6 minimum state standards as set forth in this chapter.

7 (m) Direct any individual to perform an act that violates this  
8 chapter, to refrain from reporting unlawful conduct to the bureau  
9 or another government agency, or to engage in any unfair act to  
10 persuade a student not to complain to the bureau or another  
11 government agency.

12 (n) Compensate an employee involved in recruitment,  
13 enrollment, admissions, student attendance, or sales of educational  
14 materials to students on the basis of a commission, commission  
15 draw, bonus, quota, or other similar method related to the  
16 recruitment, enrollment, admissions, student attendance, or sales  
17 of educational materials to students, except as provided in  
18 paragraph (1) or (2):

19 (1) If the educational program is scheduled to be completed in  
20 90 days or less, the institution shall pay compensation related to  
21 a particular student only if that student completes the educational  
22 program.

23 (2) For institutions participating in the federal student financial  
24 aid programs, this subdivision shall not prevent the payment of  
25 compensation to those involved in recruitment, admissions, or the  
26 award of financial aid if those payments are in conformity with  
27 federal regulations governing an institution’s participation in the  
28 federal student financial aid programs.

29 (o) Require a prospective student to provide personal contact  
30 information in order to obtain, from the institution’s Internet Web  
31 site, educational program information that is required to be  
32 contained in the school catalog or any information required  
33 pursuant to the consumer information requirements of Title IV of  
34 the federal Higher Education Act of 1965, and any amendments  
35 thereto.

36 (p) Require a student to sign an enrollment agreement without  
37 providing the student with a period of at least three days to review  
38 the catalog, the School Performance Fact Sheet, and the enrollment  
39 agreement specified in Article 11 (commencing with Section  
40 94902).

1 94898. (a) An institution shall not merge classes unless all of  
2 the students have received the same amount of instruction. This  
3 subdivision does not prevent the placement of students, who are  
4 enrolled in different educational programs, in the same class if that  
5 class is part of each of the educational programs and the placement  
6 in a merged class will not impair the students' learning of the  
7 subject matter of the class.

8 (b) After a student has enrolled in an educational program, the  
9 institution shall not do either of the following:

10 (1) Make any unscheduled suspension of any class unless caused  
11 by circumstances beyond the institution's control.

12 (2) Change the day or time during the period of attendance in  
13 which any class is offered to a day when the student is not  
14 scheduled to attend the institution or to a time that is outside of  
15 the range of time that the student is scheduled to attend the  
16 institution on the day for which the change is proposed unless at  
17 least 90 percent of the students who are enrolled consent to the  
18 change and the institution offers full refunds to the students who  
19 do not consent to the change. For the purpose of this paragraph,  
20 "range of time" means the period beginning with the time at which  
21 the student's first scheduled class session for the day is set to start  
22 and ending with the time the student's last scheduled class session  
23 for that day is set to finish.

24 (c) If an institution enrolls a student in an educational program  
25 that is conducted at a specific site at the time of enrollment, the  
26 institution shall not convert the educational program to another  
27 method of delivery, such as by means of distance education. This  
28 subdivision does not apply to an educational program that also  
29 includes a distance education component, if the student is notified  
30 during the enrollment process, in writing, that the program contains  
31 a distance education component.

32 (d) An institution shall not move the location of class instruction  
33 more than 25 miles from the location of instruction at the time of  
34 enrollment unless any of the following occur:

35 (1) The institution discloses in writing to each student before  
36 enrollment in the educational program that the location of  
37 instruction will change after the educational program begins and  
38 the address of the new location.

39 (2) The institution applies for, and the bureau grants, approval  
40 to change the location. The bureau shall grant the application within

1 60 days if the bureau, after notice to affected students and an  
2 opportunity for them to be heard as prescribed by the bureau,  
3 concludes that the change in location would not be unfair or unduly  
4 burdensome to students. The bureau may grant approval to change  
5 the location subject to reasonable conditions, such as requiring the  
6 institution to provide transportation, transportation costs, or refunds  
7 to adversely affected students.

8 (3) The institution offers a full refund to students enrolled in  
9 the educational program who do not voluntarily consent to the  
10 change.

11 (4) An unforeseeable and unavoidable circumstance outside of  
12 the control of the institution requires the change in the location of  
13 instruction.

14 94899. If an institution offers an educational program in a  
15 profession, occupation, trade, or career field that requires licensure  
16 in this state, the institution shall have an educational program  
17 approval from the appropriate state licensing agency to conduct  
18 that educational program in order that a student who completes  
19 the educational program, except as provided in Section 94905, is  
20 eligible to sit for any required licensure examination.

21 94899.5. (a) Institutions that offer short-term programs  
22 designed to be completed in one term or four months, whichever  
23 is less, may require payment of all tuition and fees on the first day  
24 of instruction.

25 (b) For those programs designed to be four months or longer,  
26 an institution shall not require more than one term or four months  
27 of advance payment of tuition at a time. When 50 percent of the  
28 program has been offered, the institution may require full payment.

29 (c) The limitations in this section shall not apply to federal and  
30 state financial aid payments received by an institution.

31 (d) At the student's option, an institution may accept payment  
32 in full for tuition and fees after the student has been accepted and  
33 enrolled and the date of the first class session is disclosed on the  
34 enrollment agreement.

35 (e) An institution that provides private loan funding shall ensure  
36 that the student is not obligated for indebtedness that exceeds the  
37 total charges for the current period of attendance.

## Article 9. Recordkeeping

94900. (a) An institution shall maintain records of the name, address, e-mail address, and telephone number of each student who is enrolled in an educational program in that institution.

(b) An institution shall maintain, for each student granted a degree or certificate by that institution, permanent records of all of the following:

(1) The degree or certificate granted and the date on which that degree or certificate was granted.

(2) The courses and units on which the certificate or degree was based.

(3) The grades earned by the student in each of those courses.

94900.5. An institution shall maintain, for a period of not less than five years, at its principal place of business in this state, complete and accurate records of all of the following information:

(a) The educational programs offered by the institution and the curriculum for each.

(b) The names and addresses of the members of the institution's faculty and records of the educational qualifications of each member of the faculty.

(c) Any other records required to be maintained by this chapter, including, but not limited to, records maintained pursuant to Article 16 (commencing with Section 94928).

94900.7. The recordkeeping requirements of this article shall not apply to an institution that is accredited, if the recordkeeping requirements of the accrediting organization are substantially similar to the recordkeeping requirements of this article, as determined by the bureau.

## Article 10. Recruiters

94901. (a) An institution's recruiters shall be employees.

(b) (1) An institution shall issue identification to each recruiter identifying the recruiter and the institution.

(2) The recruiter shall have the issued identification with him or her while recruiting.



Article 11. Enrollment Agreements and Disclosures

94902. (a) A student shall enroll solely by means of executing an enrollment agreement. The enrollment agreement shall be signed by the student and by an authorized employee of the institution.

(b) An enrollment agreement is not enforceable unless both of the following requirements are met:

(1) The student has received the institution's catalog and School Performance Fact Sheet prior to signing the enrollment agreement.

(2) At the time of the execution of the enrollment agreement, the institution held a valid approval to operate.

(c) A student shall receive a copy of the signed enrollment agreement, in writing or electronically, regardless of whether total charges are paid by the student.

94903. A student may not waive any term or receipt of any disclosure required by this article.

94904. Before an ability-to-benefit student may execute an enrollment agreement, the institution shall have the student take an independently administered examination from the list of examinations prescribed by the United States Department of Education pursuant to Section 484(d) of the federal Higher Education Act of 1965 (20 U.S.C. Sec. 1070a et seq.) as it is, from time to time, amended. The student may not enroll unless the student achieves a score, as specified by the United States Department of Education, demonstrating that the student may benefit from the education and training being offered.

94905. (a) During the enrollment process, an institution offering educational programs designed to lead to positions in a profession, occupation, trade, or career field requiring licensure in this state shall exercise reasonable care to determine if the student will not be eligible to obtain licensure in the profession, occupation, trade, or career field at the time of the student's graduation and shall provide the student with a written copy of the requirements for licensure established by the state. The institution shall not execute an enrollment agreement with a student that is known to be ineligible for licensure, unless the student's stated objective is other than licensure.

(b) During the enrollment process, an institution may discuss internships and student jobs available to the student during the student's attendance at the institution. If the institution discusses

1 internships and student jobs, the institution shall disclose the  
2 number of requests for internship and student job placement  
3 assistance received by the institution during the immediately  
4 preceding calendar year and the number of actual placements  
5 during that year.

6 94906. (a) An enrollment agreement shall be written in  
7 language that is easily understood. If English is not the student's  
8 primary language, and the student is unable to understand the terms  
9 and conditions of the enrollment agreement, the student shall have  
10 the right to obtain a clear explanation of the terms and conditions  
11 and all cancellation and refund policies in his or her primary  
12 language.

13 (b) If the recruitment leading to enrollment was conducted in a  
14 language other than English, the enrollment agreement, disclosures,  
15 and statements shall be in that language.

16 94907. An enrollment agreement shall not contain a provision  
17 that requires a student to invoke an internal institutional dispute  
18 procedure before enforcing any contractual or other legal rights  
19 or remedies.

20 94908. Any information or statement required by this article  
21 to be included in the catalog, School Performance Fact Sheet, or  
22 enrollment agreement shall be printed in at least the same size font  
23 as the majority of the text in that document.

24 94909. (a) Prior to enrollment, an institution shall provide a  
25 prospective student, either in writing or electronically, with a  
26 school catalog containing, at a minimum, all of the following:

27 (1) The name, address, telephone number, and, if applicable,  
28 Internet Web site address of the institution.

29 (2) Except as specified in Article 2 (commencing with Section  
30 94802), a statement that the institution is a private institution and  
31 that it is approved to operate by the bureau.

32 (3) The following statements:

33 (A) "Any questions a student may have regarding this catalog  
34 that have not been satisfactorily answered by the institution may  
35 be directed to the Bureau for Private Postsecondary Education at  
36 (address), Sacramento, CA (ZIP Code), (Internet Web site address),  
37 (telephone and fax numbers)."

38 (B) "As a prospective student, you are encouraged to review  
39 this catalog prior to signing an enrollment agreement. You are also

1 encouraged to review the School Performance Fact Sheet, which  
2 must be provided to you prior to signing an enrollment agreement.”

3 (4) The address or addresses where class sessions will be held.

4 (5) A description of the programs offered and the requirements  
5 for completion of each program, including required courses, any  
6 final tests or examinations, any required internships or externships,  
7 and the total number of credit hours, clock hours, or other  
8 increments required for completion.

9 (6) If the educational program is designed to lead to positions  
10 in a profession, occupation, trade, or career field requiring licensure  
11 in this state, a notice to that effect and a list of the requirements  
12 for eligibility for licensure.

13 (7) Information regarding the faculty and their qualifications.

14 (8) A detailed description of institutional policies in the  
15 following areas:

16 (A) Admissions policies, including the institution’s policies  
17 regarding the acceptance of credits earned at other institutions or  
18 through challenge examinations and achievement tests, admissions  
19 requirements for ability-to-benefit students, and a list describing  
20 any transfer or articulation agreements between the institution and  
21 any other college or university that provides for the transfer of  
22 credits earned in the program of instruction. If the institution has  
23 not entered into an articulation or transfer agreement with any  
24 other college or university, the institution shall disclose that fact.

25 (B) Cancellation, withdrawal, and refund policies, including an  
26 explanation that the student has the right to cancel the enrollment  
27 agreement and obtain a refund of charges paid through attendance  
28 at the first class session, or the seventh day after enrollment,  
29 whichever is later. The text shall also include a description of the  
30 procedures that a student is required to follow to cancel the  
31 enrollment agreement or withdraw from the institution and obtain  
32 a refund consistent with the requirements of Article 13  
33 (commencing with Section 94919).

34 (C) Probation and dismissal policies.

35 (D) Attendance policies.

36 (E) Leave-of-absence policies.

37 (9) The schedule of total charges for a period of attendance and  
38 an estimated schedule of total charges for the entire educational  
39 program.

1 (10) A statement reporting whether the institution participates  
2 in federal and state financial aid programs, and if so, all consumer  
3 information that is required to be disclosed to the student pursuant  
4 to the applicable federal and state financial aid programs.

5 (11) A statement specifying that, if a student obtains a loan to  
6 pay for an educational program, the student will have the  
7 responsibility to repay the full amount of the loan plus interest,  
8 less the amount of any refund, and that, if the student has received  
9 federal student financial aid funds, the student is entitled to a refund  
10 of the moneys not paid from federal student financial aid program  
11 funds.

12 (12) A statement specifying whether the institution has a pending  
13 petition in bankruptcy, is operating as a debtor in possession, has  
14 filed a petition within the preceding five years, or has had a petition  
15 in bankruptcy filed against it within the preceding five years that  
16 resulted in reorganization under Chapter 11 of the United States  
17 Bankruptcy Code (11 U.S.C. Sec. 1101 et seq.).

18 (13) If the institution provides placement services, a description  
19 of the nature and extent of the placement services.

20 (14) A description of the student's rights and responsibilities  
21 with respect to the Student Tuition Recovery Fund. This statement  
22 shall specify that it is a state requirement that a student who pays  
23 his or her tuition is required to pay a state-imposed assessment for  
24 the Student Tuition Recovery Fund. This statement shall also  
25 describe the purpose and operation of the Student Tuition Recovery  
26 Fund and the requirements for filing a claim against the Student  
27 Tuition Recovery Fund.

28 (15) The following statement:  
29

30 "NOTICE CONCERNING TRANSFERABILITY OF  
31 CREDITS AND CREDENTIALS EARNED AT OUR  
32 INSTITUTION

33 The transferability of credits you earn at (name of institution)  
34 is at the complete discretion of an institution to which you  
35 may seek to transfer. Acceptance of the (degree, diploma, or  
36 certificate) you earn in (name of educational program) is also  
37 at the complete discretion of the institution to which you may  
38 seek to transfer. For this reason you should make certain that  
39 your attendance at this institution will meet your educational  
40 goals. This may include contacting an institution to which you

1 may seek to transfer after attending (name of institution) to  
2 determine if your (credits or degree, diploma or certificate)  
3 will transfer.”  
4

5 (b) An institution shall provide the school catalog to any person  
6 upon request.

7 94910. Prior to enrollment, an institution shall provide a  
8 prospective student with a School Performance Fact Sheet  
9 containing, at a minimum, the following information, as it relates  
10 to the educational program:

11 (a) Completion rates, as calculated pursuant to Article 16  
12 (commencing with Section 94928).

13 (b) Placement rates, as calculated pursuant to Article 16  
14 (commencing with Section 94928), if the educational program is  
15 designed to lead to a particular career or the institution makes a  
16 claim to students regarding placement rates.

17 (c) License examination passage rates for programs leading to  
18 employment for which passage of a state licensing examination is  
19 required, as calculated pursuant to Article 16 (commencing with  
20 Section 94928).

21 (d) Salaries, if the institution, or a representative of the  
22 institution, makes any express or implied claim about the salary  
23 that may be earned after completing a program, as calculated  
24 pursuant to Article 16 (commencing with Section 94928).

25 (e) If a program is too new to provide data for any of the  
26 categories listed in this subdivision, the institution shall state on  
27 its fact sheet: “This program is new. Therefore, the number of  
28 students who graduate, the number of students who are placed, or  
29 the starting salary you can earn after finishing the educational  
30 program are unknown at this time. Information regarding general  
31 salary and placement statistics may be available from government  
32 sources or from the institution, but is not equivalent to actual  
33 performance data.”

34 (f) At least one of the following:

35 (1) A description of how the figures described in subdivisions  
36 (a) to (d), inclusive, are calculated.

37 (2) A statement informing the reader of where he or she may  
38 obtain a description of how the figures described in subdivisions  
39 (a) to (d), inclusive, are calculated.

40 (g) The following statements:

(1) “This fact sheet is filed with the Bureau for Private Postsecondary Education. Regardless of any information you may have relating to completion rates, placement rates, starting salaries, or license exam passage rates, this fact sheet contains the information as calculated pursuant to state law.”

(2) “Any questions a student may have regarding this fact sheet that have not been satisfactorily answered by the institution may be directed to the Bureau for Private Postsecondary Education at (address), Sacramento, CA (ZIP Code), (Internet Web site address), (telephone and fax numbers).”

94911. An enrollment agreement shall include, at a minimum, all of the following:

(a) The name of the institution and the name of the educational program, including the total number of credit hours, clock hours, or other increment required to complete the educational program.

(b) A schedule of total charges, including a list of any charges that are nonrefundable and the student’s obligations to the Student Tuition Recovery Fund, clearly identified as nonrefundable charges.

(c) In underlined capital letters on the same page of the enrollment agreement in which the student’s signature is required, the total charges for the current period of attendance, the estimated total charges for the entire educational program, and the total charges the student is obligated to pay upon enrollment.

(d) A clear and conspicuous statement that the enrollment agreement is legally binding when signed by the student and accepted by the institution.

(e) (1) A disclosure with a clear and conspicuous caption, “BUYER’S RIGHT TO CANCEL,” under which it is explained that the student has the right to cancel the enrollment agreement and obtain a refund of charges paid through attendance at the first class session, or the seventh day after enrollment, whichever is later.

(2) The disclosure shall contain the institution’s refund policy and a statement that, if the student has received federal student financial aid funds, the student is entitled to a refund of moneys not paid from federal student financial aid program funds.

(3) The text shall also include a description of the procedures that a student is required to follow to cancel the enrollment agreement or withdraw from the institution and obtain a refund.

1 (f) A statement specifying that, if the student obtains a loan to  
2 pay for an educational program, the student will have the  
3 responsibility to repay the full amount of the loan plus interest,  
4 less the amount of any refund.

5 (g) A statement specifying that, if the student is eligible for a  
6 loan guaranteed by the federal or state government and the student  
7 defaults on the loan, both of the following may occur:

8 (1) The federal or state government or a loan guarantee agency  
9 may take action against the student, including applying any income  
10 tax refund to which the person is entitled to reduce the balance  
11 owed on the loan.

12 (2) The student may not be eligible for any other federal student  
13 financial aid at another institution or other government assistance  
14 until the loan is repaid.

15 (h) (1) The following statement: “Prior to signing this  
16 enrollment agreement, you must be given a catalog or brochure  
17 and a School Performance Fact Sheet, which you are encouraged  
18 to review prior to signing this agreement. These documents contain  
19 important policies and performance data for this institution.”

20 (2) Immediately following the statement required by paragraph  
21 (1), a line for the student to initial, including the following  
22 statement: “I certify that I have received the catalog and School  
23 Performance Fact Sheet.”

24 (i) The following statement:

25  
26 “Any questions a student may have regarding this enrollment  
27 agreement that have not been satisfactorily answered by the  
28 institution may be directed to the Bureau for Private  
29 Postsecondary Education at (address), Sacramento, CA (ZIP  
30 Code), (Internet Web site address), (telephone and fax  
31 numbers).”

32  
33 (j) The following statement above the space for the student’s  
34 signature:

35  
36 “I understand that this is a legally binding contract. My  
37 signature below certifies that I have read, understood, and  
38 agreed to my rights and responsibilities, and that the  
39 institution’s cancellation and refund policies have been clearly  
40 explained to me.”

1 Article 12. Consumer Loans to Students

2  
3 94916. An institution extending credit or lending money to an  
4 individual for institutional and noninstitutional charges for an  
5 educational program shall cause any note, instrument, or other  
6 evidence of indebtedness taken in connection with that extension  
7 of credit or loan to be conspicuously marked on its face in at least  
8 12-point type with the following notice:

9  
10 “NOTICE

11 YOU MAY ASSERT AGAINST THE HOLDER OF THE  
12 PROMISSORY NOTE YOU SIGNED IN ORDER TO  
13 FINANCE THE COST OF THE EDUCATIONAL  
14 PROGRAM ALL OF THE CLAIMS AND DEFENSES THAT  
15 YOU COULD ASSERT AGAINST THIS INSTITUTION,  
16 UP TO THE AMOUNT YOU HAVE ALREADY PAID  
17 UNDER THE PROMISSORY NOTE.”

18  
19 94917. A note, instrument, or other evidence of indebtedness  
20 relating to payment for an educational program is not enforceable  
21 by an institution unless, at the time of execution of the note,  
22 instrument, or other evidence of indebtedness, the institution held  
23 an approval to operate.

24 94918. In making consumer loans to students, an institution  
25 shall also comply with the requirements of the Federal Truth in  
26 Lending Act pursuant to Title 15 of the United States Code.

27  
28 Article 13. Cancellations, Withdrawals, and Refunds

29  
30 94919. (a) An institution that participates in the federal student  
31 financial aid programs complies with this article by complying  
32 with applicable regulations of the federal student financial aid  
33 programs under Title IV of the *federal* Higher Education Act of  
34 1965.

35 (b) The institution shall advise each student that a notice of  
36 cancellation shall be in writing, and that a withdrawal may be  
37 effectuated by the student’s written notice or by the student’s  
38 conduct, including, but not necessarily limited to, a student’s lack  
39 of attendance.



1 (c) The institution shall also provide a pro rata refund of  
2 nonfederal student financial aid program moneys paid for  
3 institutional charges to students who have completed 60 percent  
4 or less of the period of attendance.

5 94920. An institution that does not participate in the federal  
6 student financial aid programs shall do all of the following:

7 (a) The institution shall advise each student that a notice of  
8 cancellation shall be in writing, and that a withdrawal may be  
9 effectuated by the student's written notice or by the student's  
10 conduct, including, but not necessarily limited to, a student's lack  
11 of attendance.

12 (b) Institutions shall refund 100 percent of the amount paid for  
13 institutional charges, less a reasonable deposit or application fee  
14 not to exceed two hundred fifty dollars (\$250), if notice of  
15 cancellation is made through attendance at the first class session,  
16 or the seventh class day after enrollment, whichever is later.

17 (c) The bureau may adopt by regulation a different method of  
18 calculation for instruction delivered by other means, including,  
19 but not necessarily limited to, distance education.

20 (d) The institution shall have a refund policy for the return of  
21 unearned institutional charges if the student cancels an enrollment  
22 agreement or withdraws during a period of attendance. The refund  
23 policy for students who have completed 60 percent or less of the  
24 period of attendance shall be a pro rata refund.

25 (e) The institution shall pay or credit refunds within 45 days of  
26 a student's cancellation or withdrawal.

27 94921. An institution offering an educational program for  
28 which the refund calculations set forth in this article cannot be  
29 utilized because of the unique way in which the educational  
30 program is structured, may petition the bureau for an alternative  
31 method of calculating tuition refunds.

32 94922. A student may not waive any provision of this article.  
33

#### 34 Article 14. Student Tuition Recovery Fund 35

36 94923. The bureau shall, by January 1, 2011, adopt by  
37 regulation procedures governing the administration and  
38 maintenance of the Student Tuition Recovery Fund, including  
39 requirements relating to assessments on students and student claims  
40 against the Student Tuition Recovery Fund.

1 94924. All assessments collected pursuant to this article shall  
2 be credited to the Student Tuition Recovery Fund, along with any  
3 accrued interest, for the purpose of this article. Notwithstanding  
4 Section 13340 of the Government Code, the moneys in the Student  
5 Tuition Recovery Fund are continuously appropriated to the bureau,  
6 without regard to fiscal year, for the purposes of this article.

7 94925. The amount in the Student Tuition Recovery Fund shall  
8 not exceed twenty-five million dollars (\$25,000,000) at any time.

9  
10 Article 15. Orderly Institutional Closure and Teach-outs

11  
12 94926. At least 30 days prior to closing, the institution shall  
13 notify the bureau in writing of its intention to close. The notice  
14 shall be accompanied by a closure plan, which shall include, but  
15 not necessarily be limited to, all of the following:

16 (a) A plan for providing teach-outs of educational programs,  
17 including any agreements with any other postsecondary educational  
18 institutions to provide teach-outs.

19 (b) If no teach-out plan is contemplated, or for students who do  
20 not wish to participate in a teach-out, arrangements for making  
21 refunds within 45 days from the date of closure, or for institutions  
22 that participate in federal student financial aid programs  
23 arrangements for making refunds and returning federal student  
24 financial aid program funds.

25 (c) If the institution is a participant in federal student financial  
26 aid programs, it shall provide students information concerning  
27 these programs and institutional closures.

28 (d) A plan for the disposition of student records.

29 94927. An institution shall be considered in default of the  
30 enrollment agreement when an educational program is discontinued  
31 or canceled or the institution closes prior to completion of the  
32 educational program. When an institution is in default, student  
33 institutional charges may be refunded on a pro rata basis if the  
34 bureau determines that the school has made provision for students  
35 enrolled at the time of default to complete a comparable educational  
36 program at another institution at no additional charge to the  
37 students beyond the amount of the total charges in the original  
38 enrollment agreement. If the institution does not make that  
39 provision, a total refund of all institutional charges shall be made  
40 to students.

1 94927.5. (a) Prior to closing, an institution shall provide the  
2 bureau with pertinent student records, including transcripts, as  
3 determined by the bureau by regulation.

4 (b) Subdivision (a) applies to all private postsecondary  
5 institutions, including institutions that are otherwise exempt from  
6 this chapter pursuant to Article 4 (commencing with Section  
7 94874).

8  
9 Article 16. Completion, Placement, Licensure, and Salary  
10 Disclosure Requirements  
11

12 94928. As used in this article, the following terms have the  
13 following meanings:

14 (a) “Cohort population” means the number of students that  
15 began a program on a cohort start date.

16 (b) “Cohort start date” means the first class day after the  
17 cancellation period during which a cohort of students attends class  
18 for a specific program.

19 (c) “Graduates” means the number of students who complete a  
20 program within 100 percent of the published program length. A  
21 school may include completion information for students completing  
22 the program within 150 percent of the original contracted time,  
23 but that information may not replace completion information for  
24 students completing within the original scheduled time.

25 (d) “Graduates available for employment” means the number  
26 of graduates minus the number of graduates unavailable for  
27 employment.

28 (e) “Graduates employed in the field” means graduates who are  
29 gainfully employed within six months of graduation in the field  
30 for which they received education and training and that remain  
31 employed for a period of at least 60 days.

32 (f) “Graduates unavailable for employment” means graduates  
33 who, after graduation, die, become incarcerated, are called to active  
34 military duty, are international students that leave the United States  
35 or do not have a visa allowing employment in the United States,  
36 or are continuing their education at an accredited postsecondary  
37 institution.

38 (g) “Students available for graduation” means the cohort  
39 population minus the number of students unavailable for  
40 graduation.

(h) “Students unavailable for graduation” means students who have died, been incarcerated, or called to active military duty.

94929. (a) An institution shall annually report to the bureau, as part of the annual report, and publish in its School Performance Fact Sheet, the completion rate for each program. Except as provided in subdivision (b), the completion rate shall be calculated by dividing the number of graduates by the number of students available for graduation.

(b) In lieu of calculating graduation data pursuant to subdivision (a), an institution may report graduation data reported to, and calculated by, the Integrated Postsecondary Education Data System of the United States Department of Education.

94929.5. An institution shall annually report to the bureau, as part of the annual report, and shall publish in its School Performance Fact Sheet, all of the following:

(a) The job placement rate, calculated by dividing the number of graduates employed in the field by the number of graduates available for employment for each program that is either (1) designed, or advertised, to lead to a particular career, or (2) advertised or promoted with any claim regarding job placement rates.

(b) To the extent that the state licensing entity provides the institution with access to the relevant data, the license examination passage rates for programs leading to employment for which passage of a state licensing examination is required, calculated by dividing the number of graduates who pass the examination by the number of graduates who take the licensing examination the first time that the examination is available after completion of the educational program.

(c) If the institution or a representative of the institution makes any express or implied claim about the salary that may be earned after completing the educational program, the total number of graduates employed in the applicable field and the percentage of those graduates who have earned salaries at or above the claimed level.

94929.7. (a) The information used to substantiate the rates calculated pursuant to Sections 94929 and 94929.5 shall be documented and maintained by the institution.

(b) An institution shall provide a list of employment positions determined to be within the field for which a student received

1 education and training, as outlined by this article, for the calculation  
2 of job placement rates.

3  
4 Article 17. Fees  
5

6 94930. (a) All fees collected pursuant to this article, including  
7 any interest on those fees, shall be deposited in the Private  
8 Postsecondary Education Administration Fund, and shall be  
9 available, upon appropriation by the Legislature, for expenditure  
10 by the bureau for the administration of this chapter.

11 (b) If the bureau determines by regulation that the adjustment  
12 of the fees established by this article is consistent with the intent  
13 of this chapter, the bureau may adjust the fees established by this  
14 article based upon the California Consumer Price Index and shall  
15 post notification of the adjusted fees on its Internet Web site.

16 94930.5. An institution shall remit to the bureau for deposit in  
17 the Private Postsecondary Education Administration Fund the  
18 following fees, in accordance with the following schedule:

19 (a) The following fees shall be remitted by an institution  
20 submitting an application for an approval to operate, if applicable:

21 (1) Application fee for an approval to operate: five thousand  
22 dollars (\$5,000).

23 (2) Application fee for the approval to operate a new branch of  
24 the institution: three thousand dollars (\$3,000).

25 (3) Application fee for an approval to operate by means of  
26 accreditation: seven hundred fifty dollars (\$750).

27 (b) The following fees shall be remitted by an institution seeking  
28 a renewal of its approval to operate, if applicable:

29 (1) Renewal fee for the main campus of the institution: three  
30 thousand five hundred dollars (\$3,500).

31 (2) Renewal fee for a branch of the institution: three thousand  
32 dollars (\$3,000).

33 (3) Renewal fee for an institution that is approved to operate by  
34 means of accreditation: five hundred dollars (\$500).

35 (c) The following fees shall apply to an institution seeking  
36 authorization of a substantive change to its approval to operate, if  
37 applicable:

38 (1) Processing fee for authorization of a substantive change to  
39 an approval to operate: five hundred dollars (\$500).

(2) Processing fee in connection with a substantive change to an approval to operate by means of accreditation: two hundred fifty dollars (\$250).

(d) (1) In addition to any fees paid to the bureau pursuant to subdivisions (a) to (c), inclusive, each institution that is approved to operate pursuant to this chapter shall remit an annual fee, in an amount equal to three-quarters of one percent of the institution's annual revenues derived from students in California.

(2) The amount of the annual fee pursuant to paragraph (1) shall be proportional to the bureau's cost of regulating the institution under this chapter.

94931. (a) A fee that is not paid on or before the 30th calendar day after the due date for the payment of the fee shall be subject to a 25 percent late payment penalty fee.

(b) A fee that is not paid on or before the 90th calendar day after the due date for payment of the fee shall be subject to a 35 percent late payment penalty fee.

94931.5. (a) The bureau may propose modifications to the fee schedule in Section 94930.5 to the Governor and the Legislature to add or delete categories of fees related to work performed by the bureau and propose to the Governor and the Legislature the maximum amount to be charged for each fee category added to the fee schedule. The fee schedule shall provide adequate resources for the bureau to effectively implement this chapter.

(b) The bureau shall annually publish a schedule of the current fees to be charged pursuant to this article and shall make this schedule available to the public.

#### Article 18. Compliance, Enforcement, Process, and Penalties

94932. The bureau shall determine an institution's compliance with the requirements of this chapter. The bureau shall have the power to require reports that institutions shall file with the bureau in addition to the annual report, to send staff to an institution's sites, and to require documents and responses from an institution to monitor compliance. When the bureau has reason to believe that an institution may be out of compliance, it shall conduct an investigation of the institution. If the bureau determines, after completing an investigation, that an institution has violated any

1 applicable law or regulation, the bureau shall take appropriate  
2 action pursuant to this article.

3 94932.5. As part of its compliance program, the bureau shall  
4 perform announced and unannounced inspections of institutions.

5 94933. The bureau shall provide an institution with the  
6 opportunity to remedy noncompliance, impose fines, place the  
7 institution on probation, or suspend or revoke the institution's  
8 approval to operate, in accordance with this article, as it deems  
9 appropriate based on the severity of an institution's violations of  
10 this chapter, and the harm caused to students.

11 94933.5. As much as is practicable, the bureau shall seek to  
12 resolve instances of noncompliance, including the use of alternative  
13 dispute resolution procedures in Article 5 (commencing with  
14 Section 11420.10) of Chapter 4.5 of Part 1 of Division 3 of Title  
15 2 of the Government Code.

16 94934. (a) As part of the compliance program, an institution  
17 shall submit an annual report to the bureau, under penalty of  
18 perjury, by July 1 of each year, or another date designated by the  
19 bureau, and it shall include the following information for  
20 educational programs offered in the reporting period:

21 (1) The total number of students enrolled by level of degree or  
22 for a diploma.

23 (2) The number of degrees, by level, and diplomas awarded.

24 (3) The degree levels and diplomas offered.

25 (4) The Student Performance Fact Sheet, as required pursuant  
26 to Section 94910.

27 (5) The school catalog, as required pursuant to Section 94909.

28 (6) The total charges for each educational program by period  
29 of attendance.

30 (7) A statement indicating whether the institution is, or is not,  
31 current in remitting Student Tuition Recovery Fund assessments.

32 (8) Additional information deemed by the bureau to be  
33 reasonably required to ascertain compliance with this chapter.

34 (b) The bureau shall prescribe the annual report's format and  
35 method of delivery.

36 94935. (a) Bureau staff who, during an inspection of an  
37 institution, detect a violation of this chapter, or regulations adopted  
38 pursuant to this chapter, that is a minor violation as determined by  
39 the bureau, shall issue a notice to comply before leaving the  
40 institution. The bureau shall establish a voluntary informal appeal

1 process, by regulation, within one year of the enactment of this  
2 chapter.

3 (b) An institution that receives a notice to comply shall have no  
4 more than 30 days from the date of inspection to remedy the  
5 noncompliance.

6 (c) Upon achieving compliance, the institution shall sign and  
7 return the notice to comply to the bureau.

8 (d) A single notice to comply shall be issued listing separately  
9 all the minor violations cited during the inspection.

10 (e) A notice to comply shall not be issued for any minor  
11 violation that is corrected immediately in the presence of the bureau  
12 staff. Immediate compliance may be noted in the inspection report,  
13 but the institution shall not be subject to any further action by the  
14 bureau.

15 (f) A notice to comply shall be the only means the bureau shall  
16 use to cite a minor violation discovered during an inspection. The  
17 bureau shall not take any other enforcement action specified in  
18 this chapter against an institution that has received a notice to  
19 comply if the institution complies with this section.

20 (g) If an institution that receives a notice to comply pursuant to  
21 subdivision (a) disagrees with one or more of the alleged minor  
22 violations listed in the notice to comply, an institution shall send  
23 the bureau a written notice of disagreement. The agency may take  
24 administrative enforcement action to seek compliance with the  
25 requirements of the notice to comply.

26 (h) If an institution fails to comply with a notice to comply  
27 within the prescribed time, the bureau shall take appropriate  
28 administrative enforcement action.

29 94936. (a) As a consequence of an investigation, and upon a  
30 finding that the institution has committed a violation of this chapter  
31 or that the institution has failed to comply with a notice to comply  
32 pursuant to Section 94935, the bureau shall issue a citation to an  
33 institution for violation of this chapter, or regulations adopted  
34 pursuant to this chapter.

35 (b) The citation may contain either or both of the following:

36 (1) An order of abatement that may require an institution to  
37 demonstrate how future compliance with this chapter or regulations  
38 adopted pursuant to this chapter will be accomplished.

39 (2) Notwithstanding Section 125.9 of the Business and  
40 Professions Code, an administrative fine not to exceed ten thousand



1 dollars (\$10,000) for each violation. The bureau shall base its  
2 assessment of the administrative fine on:

3 (A) The nature and seriousness of the violation.

4 (B) The persistence of the violation.

5 (C) The good faith of the institution.

6 (D) The history of previous violations.

7 (E) The purposes of this chapter.

8 (F) The potential harm to students.

9 (c) (1) The citation shall be in writing and describe the nature  
10 of the violation and the specific provision of law or regulation that  
11 is alleged to have been violated.

12 (2) The citation shall inform the institution of its right to request  
13 a hearing in writing within 30 days from service of the citation.

14 (3) If a hearing is requested, the bureau shall select an informal  
15 hearing pursuant to Article 10 (commencing with Section  
16 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the  
17 Government Code or a formal hearing pursuant to Chapter 5  
18 (commencing with Section 11500) of Part 1 of Division 3 of Title  
19 2 of the Government Code.

20 (4) If a hearing is not requested, payment of the administrative  
21 fine is due 30 days from the date of service, and shall not constitute  
22 an admission of the violation charged.

23 (5) If a hearing is conducted and payment of an administrative  
24 fine is ordered, the administrative fine is due 30 days from when  
25 the final order is entered.

26 (6) The bureau may enforce the administrative fine as if it were  
27 a money judgment pursuant to Title 9 (commencing with Section  
28 680.010) of Part 2 of the Code of Civil Procedure.

29 (d) All administrative fines shall be deposited in the Private  
30 Postsecondary Education Administration Fund.

31 94937. (a) As a consequence of an investigation, and upon a  
32 finding that an institution has committed a violation, the bureau  
33 may place an institution on probation or may suspend or revoke  
34 an institution's approval to operate for:

35 (1) Obtaining an approval to operate by fraud.

36 (2) Material or repeated violations of this chapter or regulations  
37 adopted pursuant to this chapter that have resulted in harm to  
38 students.

1 (b) The bureau shall adopt regulations, within one year of the  
2 enactment of this chapter, governing probation and suspension of  
3 an approval to operate.

4 (c) The bureau may seek reimbursement for the costs of an  
5 investigation pursuant to Section 125.3 of the Business and  
6 Professions Code.

7 (d) An institution shall not be required to pay the cost of  
8 investigation to more than one agency.

9 94938. (a) If the bureau determines that it needs to make an  
10 emergency decision to protect students, prevent misrepresentation  
11 to the public, or prevent the loss of public funds or moneys paid  
12 by students, it may do so pursuant to Article 13 (commencing with  
13 Section 11460.10) of Chapter 4.5 of Part 1 of Division 3 of Title  
14 2 of the Government Code.

15 (b) The bureau shall, by January 1, 2011, adopt regulations to  
16 give this section effect pursuant to Section 11460.20 of the  
17 Government Code.

18 94939. (a) The bureau may bring an action for equitable relief  
19 for any violation of this chapter. The equitable relief may include  
20 restitution, a temporary restraining order, the appointment of a  
21 receiver, and a preliminary or permanent injunction. The action  
22 may be brought in the county in which the defendant resides or in  
23 which any violation has occurred or may occur.

24 (b) The remedies provided in this section supplement, and do  
25 not supplant, the remedies and penalties under other provisions of  
26 law.

27 94940. As consequence of an adverse administrative action  
28 against an institution, the institution may request a hearing pursuant  
29 to Article 10 (commencing with Section 11445.10) of Chapter 4.5  
30 or Chapter 5 (commencing with Section 11500) of Part 1 of  
31 Division 3 of Title 2 of the Government Code.

32 94941. (a) An individual who has cause to believe that an  
33 institution has violated this chapter, or regulations adopted pursuant  
34 to this chapter, may file a complaint with the bureau against the  
35 institution. The complaint shall set forth the alleged violation, and  
36 shall contain any other information as may be required by the  
37 bureau.

38 (b) Taking into account the nature and seriousness of the alleged  
39 violation, the bureau shall take action to ascertain the facts and to  
40 verify the complaint. The action may include interviewing

1 institution management, conducting an investigation, holding an  
2 informal hearing, or other appropriate investigative activity.

3 (c) Upon the facts discovered, the bureau shall take appropriate  
4 administrative enforcement action.

5 (d) If the bureau finds that an institution's violation of this  
6 chapter has caused damage or loss to a student or group of students,  
7 the bureau shall order the institution to provide appropriate  
8 restitution to that student or group of students.

9 94943. The following violations of this chapter are public  
10 offenses:

11 (a) Knowingly operating a private postsecondary institution  
12 without an approval to operate is an infraction subject to the  
13 procedures described in Sections 19.6 and 19.7 of the Penal Code.

14 (b) Knowingly providing false information to the bureau on an  
15 application for an approval to operate is an infraction subject to  
16 the procedures described in Sections 19.6 and 19.7 of the Penal  
17 Code.

18 94943.5. An institution shall designate and maintain an agent  
19 for service of process within this state, and provide the name,  
20 address, and telephone number of the agent to the bureau. The  
21 bureau shall furnish the agent's name, address, and telephone  
22 number to a person upon request.

23 94944. Notwithstanding any other provision of law, the bureau  
24 shall cite any person, and that person shall be subject to a fine not  
25 to exceed fifty thousand dollars (\$50,000), for operating an  
26 institution without proper approval to operate issued by the bureau  
27 pursuant to this chapter.

28 94944.5. Each institution subject to this chapter shall be deemed  
29 to have authorized ~~their~~ *its* accrediting agency to provide the  
30 bureau, the Attorney General, any district attorney, or city attorney,  
31 within 30 days of written notice, copies of all documents and other  
32 material concerning the institution that are maintained by the  
33 accrediting agency.

34 94945. (a) This chapter does not limit or preclude the  
35 enforcement of rights or remedies under any other applicable statute  
36 or law.

37 (b) This chapter does not limit or preclude the Attorney General,  
38 a district attorney, or a city attorney from taking any action  
39 otherwise authorized under any other applicable statute or law.

## Article 19. Severability

94946. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

## Article 20. Reporting

94948. In addition to any other reporting requirements under this chapter, the bureau shall provide regular updates to the Legislature by participating in annual oversight hearings conducted by the appropriate policy committees and budget subcommittees of the Senate and Assembly. The updates shall describe the bureau's progress in adopting and enforcing regulations and the provisions of this chapter.

94949. On or before July 1, 2012, the Legislative Analyst's Office shall conduct a comprehensive review of the bureau and report to the Legislature and the Governor on the appropriateness of the exemptions provided in this chapter, the extent to which the bureau has implemented the provisions of this chapter, and the degree to which the provisions of this chapter and subsequent regulations adopted by the bureau meet the legislative intent of this chapter.

## Article 21. Termination

94950. This chapter shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 7. (a) Notwithstanding any other provision of law, and notwithstanding the repeal of the former Private Postsecondary and Vocational Education Reform Act of 1989, the sum of five hundred eighty thousand dollars (\$580,000) is hereby appropriated from the Private Postsecondary and Vocational Education Administration Fund to the Bureau for Private Postsecondary Education, for the purpose of funding five private postsecondary education specialist and senior specialist positions.

1 (b) The education specialist and senior specialist positions  
2 described in subdivision (a) shall be included in the annual budget  
3 for the Bureau for Private Postsecondary Education.

4 SEC. 8. No reimbursement is required by this act pursuant to  
5 Section 6 of Article XIII B of the California Constitution because  
6 the only costs that may be incurred by a local agency or school  
7 district will be incurred because this act creates a new crime or  
8 infraction, eliminates a crime or infraction, or changes the penalty  
9 for a crime or infraction, within the meaning of Section 17556 of  
10 the Government Code, or changes the definition of a crime within  
11 the meaning of Section 6 of Article XIII B of the California  
12 Constitution.